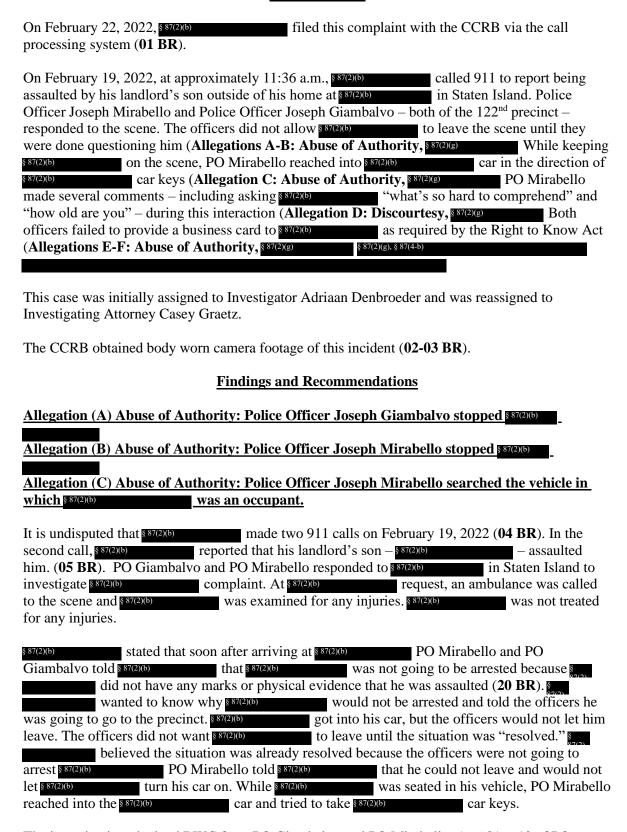
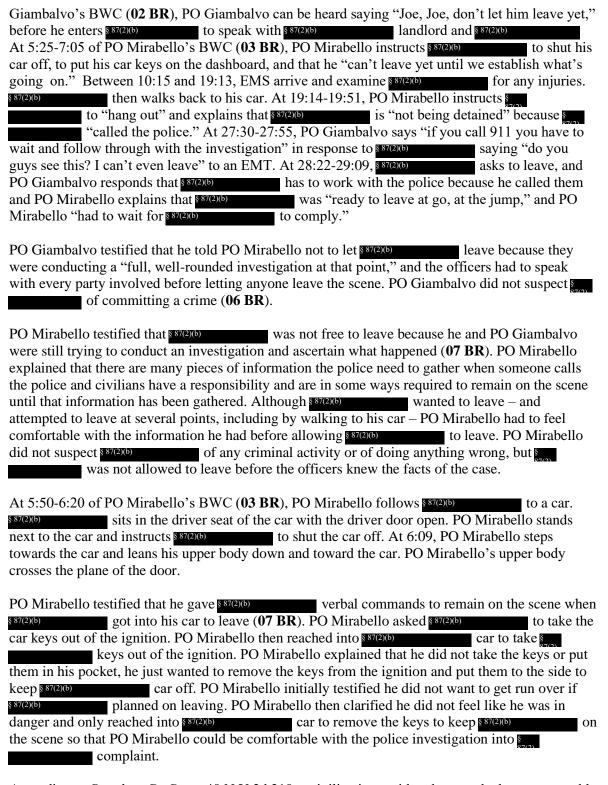
CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	☐ Force	✓ Discourt.	U.S.
Casey Graetz		Bias Squad #2	202201120	☑ Abuse	O.L.	☐ Injury
Incident Date(s)		Location of Incident:	•	Precinct:	18 Mo. SOL	EO SOL
Saturday, 02/19/2022 12:00 PM		§ 87(2)(b)		122	8/19/2023	8/19/2023
Date/Time CV Reported		CV Reported At:	How CV Reported	: Date/Tim	ne Received at CCI	RB
Sat, 02/19/2022 12:53 PM		CCRB	Call Processing System	Sat, 02/19	9/2022 12:53 PM	
Complainant/Victim	Type	Home Addre	ess			
Subject Officer(s)	Shield	TaxID	Command			
1. PO Joseph Mirabello	01552	933999	122 PCT			
2. PO Joseph Giambalvo	19877	965134	122 PCT			
Officer(s)	Allegati	on		Inv	estigator Recon	nmendation
A.PO Joseph Giambalvo	Abuse: Police Officer Joseph Giambalvo stopped \$87(2)(6)					
B.PO Joseph Mirabello	Abuse: Police Officer Joseph Mirabello stopped \$87(2)(6)					
C.PO Joseph Mirabello	Abuse: Police Officer Joseph Mirabello searched the vehicle in which [887(2)(6)] was an occupant.					
D.PO Joseph Mirabello	Discourtesy: Police Officer Joseph Mirabello spoke discourteously to \$87(2)(6)					
E.PO Joseph Mirabello	Abuse: Police Officer Joseph Mirabello failed to provide with a business card.					
F.PO Joseph Giambalvo	Abuse: Police Officer Joseph Giambalvo failed to provide with a business card.					
§ 87(2)(g), § 87(4-b)						

Case Summary



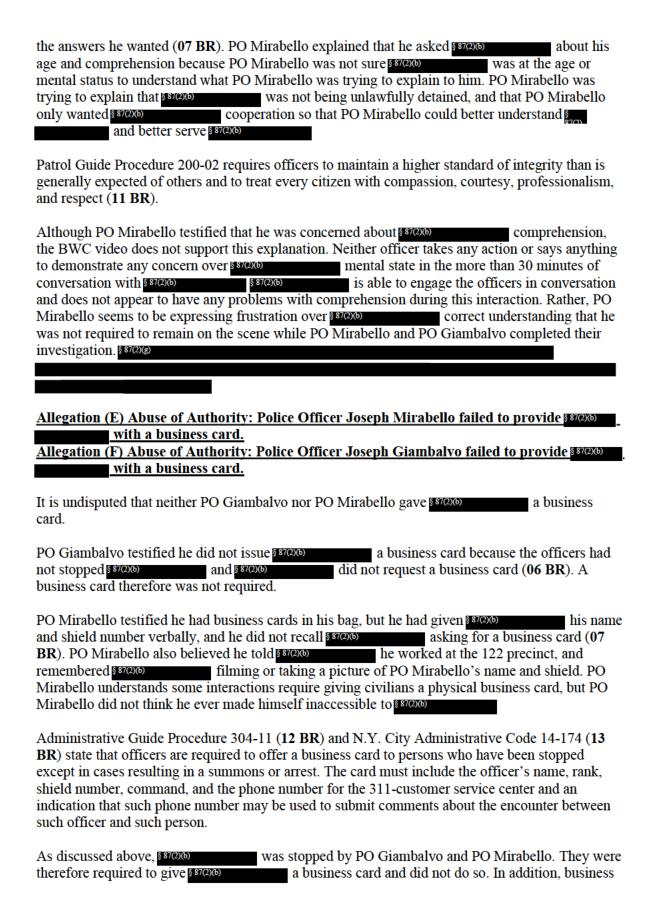
The investigation obtained BWC from PO Giambalvo and PO Mirabello. At 6:01-6:10 of PO



According to *People v. De Bour*, 40 N.Y.2d 210, a civilian is considered stopped when a reasonable person would not feel free to disregard the officer and walk away, even without the threat of physical force (**08 BR**). Police officers must have a reasonable suspicion that a person has committed or is about to commit a felony or misdemeanor in order to stop said person.

Patrol Guide Procedure 212-11 (**09 BR**) states that a level one encounter does not require any suspicion of criminal activity, instead the officer gathers information, not focusing on the person as a potential suspect. During a level one encounter, the officer may not ask accusatory questions, prevent the person from refusing to answer and/or walk away, nor ask consent to search. A level three encounter rises to the level of a stop, and the person is detained while an investigation is conducted to determine if there is probable cause to arrest the person. A stop may be conducted only when a police officer has an individualized reasonable suspicion that the person stopped has committed, is committing, or is about to commit a felony or Penal Law misdemeanor.

PO Giambalvo and PO Mirabello spent more than 30 minutes outside and around strong interacting with strong Around five minutes after they arrived, strong attempted to leave the scene for the first time. Both PO Giambalvo and PO Mirabello decided that was not free to leave because they were investigating strong assaulted him. Neither PO Mirabello nor PO Giambalvo suspected
of any criminal activity and only detained him to gather information in aid of their investigation of complaint. PO Giambalvo and PO Mirabello continued to detain after he was examined by EMS and again tried to leave the scene. PO Giambalvo and PO Mirabello maintained that serve had to stay on the scene because he called the police.
§ 87(2)(g)
According to <i>People v. Hernandez</i> , 238 A.D.2d 131, an officer breaching the plane of the car doorway with his body or arm to reach inside the vehicle constitutes a search of a vehicle (10 BR). There must be probable cause that a vehicle contains contraband, weapons, or evidence of a crime to justify a warrantless search of a vehicle.
PO Mirabello reached into \$87(2)(0) car toward \$87(2)(0) car keys in an attempt to turn \$87(2)(0) car off and keep \$87(2)(0) on the scene. By reaching into \$100 car, PO Mirabello breached the plane of the car with his arm and upper body.
Allegation (D) Discourtesy: Police Officer Joseph Mirabello spoke discourteously to চুগ্রতিত
described PO Mirabello as acting aggressive when wanted to go to the station house (20 BR).
At 6:52-7:05 of PO Mirabello's BWC (03 BR), stopped tells PO Mirabello that PO Mirabello is harassing him by telling him to take out his car key. PO Mirabello responds that cannot leave until the officers establish what is going on and asks stopped asks if he can leave, and PO Mirabello says that stopped has been combative and asked for medical attention after first refusing it because stopped was "stomping [his] feet" and "being a little childish about it."
PO Mirabello testified that \$87000 behavior was childlike because he and PO Giambalvo would ask pointed questions and \$87000 would try to buy more time and get



cards include m	ore information than what	PO Mirabello provided to 887(2)(0)	§ 87(2)
§ 87(2)(g), § 87(4-b)			_
	<u>Civilian an</u>	d Officer CCRB Histories	
PO Giamba complaint toPO Mirabel	lvo has been a member-of- o which he has been a subj lo has been a member of so	hich service for four years and this is the ect (15 BR). ervice for 18 years and has been a strong, which remain pending (16 B	ne first CCRB subject in one other
	Mediation,	Civil, and Criminal Histories	
 § 87(2)(6) As of October of Claim is [§ 87(2)(6)] [§§ 86(1) 	pending.	this complaint. The New York City Office of the Co	omptroller for a Notice
Squad: 16			
Investigator:	/s/ Casey Graetz Signature	Inv. Att. Casey Graetz Print Title & Name	04/20/2023 Date

Squad Leader	: Tessa Yesselman	IM Tessa Yesselman	04/20/2023
	Signature	Print Title & Name	Date
Reviewer:	Darius Charney	RPBP Dir. Darius Charne	05/05/23
	Signature	Print Title & Name	Date